

**Title 9—DEPARTMENT OF  
MENTAL HEALTH  
Division 45—Division of Mental  
Retardation and  
Developmental Disabilities  
Chapter 2—Eligibility for Services**

**PROPOSED RULE**

**9 CSR 45-2.015 Criteria for MRDD Comprehensive Waiver Slot Assignment**

*PURPOSE: This rule establishes statewide policy for requesting and approving participation in the Mental Retardation and Developmental Disabilities (MRDD) Comprehensive Home and Community Based Waiver.*

(1) Persons eligible for services through the MRDD Comprehensive Medicaid Waiver and who are in an emergency situation and who require out-of-home residential services or for whom out-of-home residential care is imminent without in-home services, will receive priority consideration in accessing a comprehensive waiver slot.

(A) The requested services must be directly related to preventing the person from entering a Medicaid institution or enabling a person to leave a Medicaid institution.

(B) Division treatment professionals must determine:

1. a community living arrangement is appropriate for the person;
2. the person is eligible for the waiver; and
3. the person chooses waiver services over institutional services.

(C) The division's Utilization Review (UR) process including prioritization of service need by assignment of a point count must be applied to all persons prior to assignment of a slot.

(2) Emergency situation is described as follows:

(A) The person is in immediate need of life-sustaining services and there is no alternative to division funding or provision of those services. Life-sustaining service is defined as a service to meet a basic human need such as food and shelter, or protection from harm.

(B) The person must be provided immediate services in order to protect another person or persons from imminent physical harm.

(C) The person is residing in an Intermediate Care Facility for persons who have Mental Retardation (ICF/MR) and has been assessed as able to live in a less restrictive arrangement in the community, the person wants to live in the community, and appropriate services and supports can be arranged through the waiver.

(D) The person is the focus of a court order.

(E) The person under age eighteen (18) requires coordinated services through several agencies to avoid court action.

(F) The person has been receiving MRDD waiver services through the Missouri Children with Developmental Disabilities Waiver (also known as the Sarah Jian Lopez Waiver), has attained age eighteen (18), and requires MRDD waiver services that are only available through the MRDD Comprehensive Waiver. This does not include participants who attain age eighteen (18) whose primary need is access to State plan services.

(G) The person's primary caregiver has a documented terminal or severe, long term medical condition that prevents the caregiver from continuing care in the home without access to services through the MRDD Comprehensive Waiver. Waiver services will supplement the natural and community supports the person is eligible to access but will not provide twenty-four (24) hour, seven (7) days per week support in the home. The person must be determined by the division to otherwise require more costly out of home services and have a UR score that substantiates the emergency need.

(3) The division director or designee may consider and may approve requests for slots when a Senate Bill 40 County Board will fund residential services for persons for whom UR has been applied and whose need meets emergency criteria.

(4) Processing Requests for Waiver Participation for Persons Who Do Not Meet the Criteria of Emergency Need.

(A) Anytime a person or the person's legal representative requests participation in the MRDD Comprehensive Medicaid Waiver, the regional center must determine if the person is eligible for the waiver, and if so, if the person wants to participate in the waiver. This includes completing the the form entitled Evaluation of Need for an ICF-MR Level of Care and Eligibility for the MRDD Waiver, which is incorporated by reference as part of this rule.

(B) If the person is determined eligible, but the UR process including the prioritization of service need has not been done, the regional center must complete this process.

(C) If the person is eligible, but does not meet the emergency criteria need, the person's name will be placed on a waiver waiting list. Persons on the waiting list will be served according to the UR score that prioritizes need.

(D) The regional center must send written notification of the results of the eligibility determination to the person or the person's legal representative that includes appeal rights regardless of whether the person is determined eligible and placed on a waiting list or is determined ineligible for the waiver.

(5) Crisis Intervention Services. If a person requires crisis intervention services and the person is not in the comprehensive waiver, the person cannot be enrolled in the comprehensive waiver on a temporary basis. The process for accessing the comprehensive waiver must be the same for all persons.

(6) Waiver Participant Turnover

(A) Funds-freed up due to participants leaving the waiver (turnover) will first be used for persons served in the waiver who have increased needs and to serve persons who meet emergency need criteria. When the needs of these persons are met, funds that become available from turnover may be used to serve a person on the waiver waiting list with the next highest UR rated priority.

(B) Turnover in a two (2) or three (3) person Individualized Supported Living (ISL) arrangement may result in no funds that can be redirected if the same level of staffing must be maintained causing the cost for the remaining resident(s) to increase.

1. When an opening occurs in such a living arrangement, the regional center will determine if a person in the region, district, or state meeting emergency criteria chooses this living arrangement (including location); and if the current resident(s) also choose the person being referred.

2. If the arrangement is not acceptable to persons meeting emergency criteria, the regional center will determine if the living arrangement is acceptable and appropriate for a person with the next highest UR rated priority on the waiting list.

3. If it is not, the regional center may request a waiver slot be used for a person on the waiting list in the region or district according to prioritized need.

(7) Once a person is assigned a comprehensive waiver slot, the slot follows the person within the state as long as the person remains eligible for the waiver. A regional center director can immediately resolve emergency situations for persons who have an assigned comprehensive waiver slot without obtaining approval from the division director or a designee.

8) Terminating Waiver Participation

(A) Persons shall be terminated from the waiver if the division cannot assure the person's health and safety living in the community, or if the person:

1. is determined by the division to no longer meet ICF/MR level of care or to no longer require waiver services;

2. voluntarily requests discharge from waiver services;
3. becomes ineligible for Medicaid;
4. moves from the state;
5. refuses services or otherwise does not use waiver services; or
6. moves to a Medicaid institution.

(B) Each person who is terminated must be notified in writing they are being terminated, the reason for the termination action, effective date, and appeal rights.

*AUTHORITY: section 630.050, RSMo 2003. Emergency rule filed October 1, 2004, effective October 15, 2004, expires April 15, 2005. Original rule filed October 1, 2004.*

*PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rescission by writing to Kay Green, Deputy Division Director – Federal Programs, Division of Mental Retardation and Developmental Disabilities, PO Box 687, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*

\_\_\_\_\_ Initial Determination

\_\_\_\_\_ Annual Redetermination

**Evaluation of Need for an ICF-MR Level of Care and Eligibility for the MRDD Waiver**

Person \_\_\_\_\_ DMH# \_\_\_\_\_

New Date of Eligibility for Waiver \_\_\_\_\_ Regional Center \_\_\_\_\_

**The purpose of this form is to determine and document whether or not the above named person has a need for the level of care provided in an ICF-MR and if so, would he or she require ICF-MR placement if not provided services under Missouri's Home and Community Based Waiver for persons with developmental disabilities.**

**I. Is the person eligible for ICF-MR?**

**A. Diagnostic determination of Mental Retardation or a Related Condition which would otherwise qualify him/her for placement in an ICF/MR:**

1. Diagnoses: Axis I \_\_\_\_\_ Axis II \_\_\_\_\_ Axis III \_\_\_\_\_

2. If the diagnosis is of a related condition, document the person has functional limitations in THREE (3) or more of the following areas of life activity or, if a child, has or is likely to have, functional limitations in at least three equivalent, age appropriate major life activities:

Self Care \_\_\_\_\_ Learning \_\_\_\_\_ Self Direction \_\_\_\_\_ Capacity for Independent Living \_\_\_\_\_  
Receptive and Expressive Language (development and use) \_\_\_\_\_ Mobility \_\_\_\_\_  
See Attached (children only) \_\_\_\_\_

**B. Does this person have a need for a continuous active treatment program, including aggressive consistent implementation of a program of specialized and generic training, treatment, health services and related services that are directed towards the acquisition of the behaviors necessary to function with as much self determination and independence as possible; and the prevention or deceleration of regression or loss of current optimal functional status? YES \_\_\_\_\_ NO \_\_\_\_\_.**

*Indicate, by checking below, the limitations this person has which require active treatment:*

\_\_\_\_\_ Medical: Has a medical condition that requires ongoing treatment and support.

\_\_\_\_\_ Behavior: Engages in behaviors that are aggressive or self injurious and therefore requires support from staff to encourage positive social interactions and to prevent injury to self or others.

\_\_\_\_\_ Communication: Due to limitations in hearing, speaking, reading and/or writing this person has difficulty expressing or understanding written and spoken communication.

\_\_\_\_\_ Cognitive abilities: Difficulty in processing and understanding information. The rate at which this person learns may be considered slow and creates difficulty in acquiring complex skills.

\_\_\_\_\_ Daily living skills: has difficulty carrying out age appropriate daily routines with regard to personal hygiene, financial management, household chores and/or nutritional needs.

\_\_\_\_\_ Motor development: has difficulty moving about independently and safely resulting in problems accessing the community, operating household equipment and or performing activities of daily living.

\_\_\_\_\_ Socialization: does not possess adequate social skills necessary to establish and maintain interpersonal relationships with peers, relatives, co-workers and other community members.

\_\_\_\_\_ Other (specify): \_\_\_\_\_

\_\_\_\_\_

II. Is there a reasonable indication, based on your observation and assessment of this person's physical, mental and environmental condition, that he/she will need placement in an ICF/MR unless provided home and community based services under the waiver? YES\_\_\_\_ NO\_\_\_\_

Summarize the information that supports the above conclusion:

---

---

---

---

---

---

---

---

III. List below all assessments and evaluations on which you based the conclusions above. For each entry, document

the type of evaluation/assessment and by whom and when it was completed. In addition, for evaluations/assessments which were performed over 30 days prior to this level of care determination, also document the date you reviewed the information and on what basis you believe it is still accurate.

---

---

---

---

---

---

---

---

**ATTACH ADDITIONAL DOCUMENTATION IF NECESSARY**

This information is maintained where? \_\_\_\_case record, \_\_\_\_other location (specify) \_\_\_\_\_

---

IV. \_\_\_\_\_  
Signature Title Date